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DEPARTMENT OF STATE FOR DRL/ILCSR (GABRIELLA RIGG) AND
WHA/PPC (MIKE PUCCHETTI)
DEPARTMENT OF LABOR FOR DOL/ILAB (THERESA ESQUIBEL)

E.O. 12958: N/A
TAGS: [ELAB](#) [OTRA](#) [PM](#)
SUBJECT: PANAMA: LABOR INFORMATION FOR DOL'S FTA REPORTING
REQUIREMENTS

REF: STATE 7326

¶1. (U) Per reftel instructions, updated information on labor conditions in Panama follows. Responses are listed by the order given in reftel.

LEGAL FRAMEWORK

¶2. (U) We know of no further developments to implement the suggested changes made by the ILO Committee of Experts in ¶2005. According to the Panamanian Ministry of Labor (MITRADEL), the minimum number of members needed to form a union (40) was the result of a consensus that originated with Law 44 of 1995. MITRADEL notes that employers had originally requested a minimum of 50 members. MITRADEL also states that worker groups consider the suggested minimum number (20) would mean dispersing the unions. MITRADEL maintains that any effort to change the current minimum number should come from the employers and workers who formed the consensus.

¶3. (U) The 2005 legislation to create a new Labor Security and Health Council continues to await action by the National Assembly. According to MITRADEL, the legislation was proposed when the country was in the midst of the national social security reform debate, and it was not considered appropriate to introduce another element into the discussion. Subsequent issues (including the late 2006 deaths of more than 50 Panamanians from contaminated GOP-produced medicines) have affected the national healthcare system, further postponing the progress of the legislation. A new commission to oversee national health issues has been created to put forth proposals for broad reform of Panama's healthcare system. MITRADEL believes that this commission may consider the Council legislation for further action.

¶4. (U) MITRADEL provided numerous files for Supreme Court cases regarding labor. However, labor lawyers said that there had been no significant changes to labor law. The most relevant case involves the October 2006 Supreme Court ruling that Article 75 of Law 8 of 1998 was unconstitutional. This ruling held that the non-obligation of shipowners to sign collective agreements violated the right to join a union and the right to strike. According to maritime law experts, this ruling protects the right to strike for workers at sea and on navigable waterways.

ADMINISTRATION OF LABOR LAW

¶5. (U) Hourly minimum wage rates, as established by

Executive Decree 7 in March 2006, are as follows:

Economic Activity- Region 1, Region 2, Region 3

-Agriculture, Farming, Hunting- 0.89, 0.89, 0.89 (small business), 0.94, 0.94, 0.94 (large business)
-Fishing- 1.17, 1.17, 1.17
-Mining- 1.37, 1.16, 1.16
-Manufacturing industries- 1.27, 1.06, 0.93 (small business), 1.36, 1.13, 1.03 (large business)
-Baking, Breadmaking- 1.26, 1.06, 0.93 (small business), 1.34, 1.13, 1.03 (large business)
-Garment Manufacturing, Wood Manufacturing, Furnituremaking, Food Production- 1.26, 1.06, 0.93 (small business), 1.35, 1.13, 1.03 (large business)
-Electricity, Gas, Water- 1.38, 1.17, 1.05
-Construction- 1.68, 1.48, 1.33
-Wholesale and Commission Trade- 1.37, 1.12, 1.00
-Retail and Hotel Trade- 1.29, 1.07, 0.93 (small business), 1.37, 1.11, 1.00 (large business)
-Restaurants- 1.27, 1.06, 0.93 (small business), 1.36, 1.11, 0.99 (large business)
-Transportation- 1.37, 1.16, 1.00
-Transportation by Water, Air, and Activities Complementary to Water and Air Transportation- 1.39, 1.17, 1.02
-Stores, Warehouses, Couriers- 1.37, 1.16, 1.00
-Telecommunications and Network Maintenance- 1.38, 1.17, 1.02
-Financial intermediaries- 1.38, 1.35, 1.34
-Savings and Credit Cooperatives- 1.37, 1.34, 1.34
-Real Estate Activities- 1.38, 1.35, 1.34
-Renting, Leasing Activities- 1.37, 1.34, 1.33
-Business Activities- 1.39, 1.36, 1.35
-Community, Social, and Personal Services- 1.35, 1.13, 0.99
-Discotheques, Amusement Parks, Casinos- 1.36, 1.14, 0.99

-Monthly minimum wage for domestic service is \$119 for Panama, Colon, and San Miguelito, and \$106 for the rest of the country.

-Region 1 includes Panama, Colon, and San Miguelito. Region 2 includes Chitre, Las Tablas, Aguadulce, Nata, Penonome, Santiago, Baru, Bugaba, David, Changuinola, Capira, Chepo, Arraijan, La Chorrera, and Taboga. Region 3 is all other parts of the country. Small businesses are those with ten or fewer employees.

-The highest hourly minimum wage rates are given in the construction sector, while the lowest hourly minimum wage rates are given in the agriculture and farming sectors.

¶6. (U) MITRADEL did not provide information on average hourly wages. However, based on press reports, the average monthly minimum wage rate is now \$285, an increase of 8 percent over the 2003 rate of \$263.

¶7. (U) Executive Decree 13, dated April 28, 2006, established for the first time a minimum wage for public sector employees. These rates will go into effect July 1, ¶2007. Average monthly salaries, according to the Comptroller General, were:

Year: Total/Central Government/Autonomous and Semiautonomous/Municipal

-2003: 640.33/507.90/867.72/360.19
-2004: 646.35/508.64/881.87/361.26
-2005: 664.94/520.74/924.90/352.60

¶8. (U) MITRADEL currently has 67 labor inspectors at the national level. MITRADEL carried out 8,398 labor inspections in 2005 and 10,463 labor inspections in 2006.

¶9. (U) According to MITRADEL, it does not carry out labor inspections on Panamanian-flagged carriers. Maritime inspections are carried out by the Panama Maritime Authority.

¶10. (U) MITRADEL did not provide a specific answer on the status of the maritime labor courts, answering that labor

tribunals fall under the judicial branch. Labor lawyers say that there are two maritime courts in existence, but these lawyers believe these courts do not handle labor cases.

¶11. (U) According to MITRADEL's Conciliation and Decision Boards, in 2006 2,668 lawsuits were filed and 1,599 hearings were held, with 623 sentences in favor of workers and 504 in favor of employers. A total of 472 cases were reconciled outside of court.

¶12. (U) MITRADEL said that the judicial system on labor issues falls under the judicial branch. The Directorate General of Labor and the Conciliation and Decisions Boards in MITRADEL reported no complaints on delays in the judicial system. Labor lawyers reported delays in the judicial system have improved but are still running from 3-6 months. According to the labor lawyers, MITRADEL has improved alternate dispute resolution training and hired additional personnel, and this has helped to decrease delays.

¶13. (U) MITRADEL's Department of Socioeconomic Integration of Persons with Disabilities develops promotion and awareness activities on a national level. The Department holds interviews, meetings, plenary sessions, talks, training, and other informational activities aimed at the private sector, national authorities, organizations and other government entities to promote progress toward the hiring of persons with disabilities.

¶14. (U) In 2005, MITRADEL registered two new unions and no new federations or confederations. In 2006, MITRADEL registered two new unions and one new confederation. Currently, there are 677 unions, 62 federations, and 11 confederations registered with MITRADEL.

FREEDOM OF ASSOCIATION

¶15. (U) Reliable statistics on the number and percent of the country's workforce that is member to a union do not exist. The government does not maintain such records. MITRADEL estimates that the number of people employed in private business, as of March 2006, is 534,219, of which 14 percent are affiliated to union organizations. Union representatives

put the percentage at about 10 percent. Other estimates range from 8 to 12 percent.

¶16. (U) According to MITRADEL, there were two unions in the EPZs that were registered. However, these unions are now inactive because the companies where the unions were located have ceased operations.

¶17. (U) Statistics on the number of employees who are members of employee associations do not exist. MITRADEL does not register associations of employees.

¶18. (U) In 2005, some 14 strikes were declared, and one was actually carried out. In 2006, some 25 strikes were declared, and three were carried out. Workers carried out strikes because they and the employers could not reach agreement on specific points in the submitted List of Petitions. Twenty workers participated in the 2005 strike, which lasted four days, and 395 workers participated in the 2006 strikes, which lasted nine days.

¶19. (U) According to the Supreme Court ruling mentioned above in paragraph 4, workers at sea do have the right to strike. Maritime labor lawyers did not know of specific documents given to workers informing them of their right to strike. Because the ruling happened late in 2006, the labor lawyers think that the unions were delayed in informing the workers of this ruling, but will do so. They knew of no maritime labor strikes.

RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

¶20. (U) According to MITRADEL, 73 collective bargaining agreements were signed in 2006, the same number as in 2005. These agreements were from the private sector. There were no collective agreements in the EPZs. There was one agreement in 2006 in the call centers; there were none in 2005. There were none in the Canal area.

¶21. (U) As mentioned above, reliable statistics are not available, but estimates range from 8 to 12 percent on the number of workers covered by an active union. Currently, the two EPZ unions are no longer active.

¶22. (U) In 2005, MITRADEL provided mediation assistance in 122 cases, 25 of which resulted in a collective bargaining agreement. MITRADEL provided mediation assistance in 115 cases in 2006, 24 of which resulted in a collective bargaining agreement.

¶23. (U) In 2005, there were 16 direct agreements between employers and a non-union group of employees. In 2006, there were 24 such agreements.

¶24. (U) Law 9, Article 136 of 1994 grants public administrative career employees the right to "integrate to associations to promote and dignify the public employee." It also prohibits the "favoring, hindering, or influencing in any way, the affiliation or non-affiliation of public employee associations."

¶25. (U) According to MITRADEL, such forms of anti-union discrimination do not exist in Panama "at a significant level." Labor union leaders and lawyers say that they do not doubt that some such discrimination may occur, but they know of no particular cases.

PROHIBITION OF FORCED OR COMPULSORY LABOR

¶26. (U) There have been no credible reports of forced labor in Panama. Trafficking in persons continues to follow the patterns cited in the 2005 Human Rights Report and the 2006 Trafficking in Persons Report. Reliable statistics for trafficking do not exist; however, for 2006, as of December, the Sex Crimes Unit of the Judicial Technical Police investigated 5 cases of sexual trafficking, mostly involving Colombian women, 24 cases of child pornography, 21 cases of procurement for commercial sexual activities, 4 cases of sex tourism, and 8 cases of child molestation. In January 2007, Panama had its first trafficking in persons conviction. ILO-IPEC has sponsored a number of awareness and capacity building activities in Panama in 2006, including media campaigns and the inclusion of anti-trafficking programs in some public schools.

ELIMINATION OF THE WORST FORMS OF CHILD LABOR

¶27. (U) Reliable statistics on child labor continue to be scarce. According to a 2005 study by the Comptroller General's office, 10.5 percent of children ages 10-17 years were employed in 2004 and 11.6 percent were employed in 2005. In the same population group, 9.6 percent of non-indigenous children were employed in 2004, compared with 19.8 percent of indigenous. In 2005, 9.9 percent of non-indigenous and 27.6 percent of indigenous children were employed. From these numbers, the study indicated that 47.6 percent were employed in a family setting, 27.8 percent were formal employees, and 24.5 percent were self employed. In 2006, MITRADEL performed 369 inspections of businesses in Panama City to ensure compliance with child labor regulations, plus 139 inspections in the interior of the country. The GOP, along with the ILO and the non-governmental organization Casa Esperanza funded an anti-child labor awareness campaign. Casa Esperanza

operated 56 centers throughout the country to reduce child labor, and through the DESTINO project operated 41 educational centers for children and youth.

ACCEPTABLE CONDITIONS OF WORK

¶28. (U) From September 2005 to August 2006, MITRADEL registered 89 workplace accidents, 9 fatal accidents, 30 incapacitating accidents, and 6 cases of workplace-related illnesses. The majority of accidents were in the construction industry, according to MITRADEL.

¶29. (U) According to labor union leaders and lawyers, denial of worker rights to indigenous people can happen in the cases of migrant agricultural workers, who do not work under formal contracts. They said that they do not know of cases of denial of worker rights to indigenous people outside of such circumstances.

Eaton